

IN THE U.S. PATENT AND TRADEMARK OFFICE

In re application of

Jack GUSTAVSSON Conf. 1500

Application No. 10/585,980 Group 3673

Filed August 15, 2006 Examiner Christopher J. Boswell

Title SECURITY CONTAINER WITH TWO LOCKS

APPEAL BRIEF

Mail Stop Appeal Brief - Patents
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1. Real party in interest:

The real party in interest in this appeal is:

CESIUM, BOX 109, S-641 22 KATRINEHOLM, SWEDEN.

2. Related appeals and interferences

None.

3. Status of claims

Claims 1, 2, 5, 8 and 10-15 are pending in the application. Claims 3, 4, 6, 7 and 9 have been canceled. Claims 1, 2, 5, 8 and 10-15 have been finally rejected, from which this appeal is taken.

4. Status of amendments

No amendments have been filed subsequent to the final rejection mailed October 29, 2009. The claims at issue are thus those set forth in the amendment filed on June 16, 2009.

5. Summary of claimed subject matter

Independent claim 1 (means-plus-function): As is set forth in independent claim 1, the present invention pertains to a security container, which includes:

at least one basic module A (Page 3, lines 6-7);

at least one floor element;

at least one ceiling element;

side wall elements 28, A' (Page 3, line 9); and

one end piece 35, the side wall elements 28 and the end piece being mounted between the floor element and the ceiling element at the basic module A (Page 3, lines 9-10; Page 5, lines 12-14), the basic module A being attached to one door section equipped with a lock device 36, 36' in connection to at least one of the end piece 35 and the side wall elements A' (Page 5, lines 6-9; Page 5, lines 22-25),

wherein the door section, in its closed position, has parts protruding into or behind, or into and behind, adjacent side wall elements (Page 3, lines 24-25), and, in a locked position, has locking means 38, 39 protruding into the floor element and into the ceiling element (means-plus-function - Page 3, lines 25-26; Page 5, lines 35-37), the wall sections have outer and inner casings of metal (Page 3, lines 32-34), an intermediate space is partially filled with concrete (page 3, line 30), the container having metal casings between which a plurality of scantlings 32 are arranged (Page 3, lines 33-35), and at least two independent of each other

locking devices 38,39 are arranged in connection to a door section in which at least one primary locking device D will protect against admission to a secondary head locking device (Page 5, lines 37-43; Page 6, lines 7-12).

Independent claim 10: As is set forth in the independent claim 10, the present invention pertains to a security container, which includes:

at least one basic module A (Page 3, lines 6-7);

at least one floor element;

at least one ceiling element;

side wall elements 28, A' (Page 3, line 9); and

one end piece 35, the side wall elements 28 and the end piece being mounted between the floor element and the ceiling element at the basic module (Page 3, lines 9-10; Page 5, lines 12-14), the basic module A being attached to one door section equipped with a lock device 36, 36' in connection to at least one of the end piece 35 and the side wall elements A' (Page 5, lines 6-9; Page 5, lines 22-25),

wherein the door section, in its closed position, has parts protruding into or behind, or into and behind, adjacent side wall elements (Page 3, lines 24-25), and, in a locked position, has a locking element 38, 39 protruding into the floor element and into the ceiling element (Page 3, lines 25-26; Page 5, lines 35-37), the wall sections have outer and inner casings of metal (Page 3, lines 32-34), an intermediate space is

partially filled with concrete (page 3, line 30), the container having metal casings between which a plurality of scantlings are arranged (Page 3, lines 33-35), and at least two independent of each other locking devices 38,39 are arranged in connection to a door section in which at least one primary locking device D will protect against admission to a secondary head locking device (Page 5, lines 37-43; Page 6, lines 7-12).

6. Grounds of rejection to be reviewed on appeal

The first ground for review on appeal is whether claims 10-13 and 15 are sufficiently substantial duplicates to support an objection under 37 C.F.R. §1.75.

The second ground for review on appeal is whether claims 1, 2, 10, 11, 14 and 15 are sufficiently anticipated by ALIZADE (U.S. Patent Number 6,386,122) to support a rejection under 35 U.S.C. § 103(a).

The third ground for review on appeal is whether claims 5 and 12 are sufficiently unpatentable over ALIZADE in view of DIPPOLD et al. (U.S. Patent Number 4,158,338) to support a rejection under 35 U.S.C. § 103(a).

The fourth ground for review on appeal is whether claims 8 and 13 are sufficiently unpatentable over ALIZADE in view of ROBBINS et al. (U.S. Patent Number 5,377,514) to support a rejection under 35 U.S.C. § 103(a).

7. Argument

7.0 Summary of Argument

The applied art does not disclose or infer scantlings separating containers or a primary locking device protecting a secondary locking device.

7.1 First ground: objection

The final Office Action asserts that claims 10-13 and 15 are substantial duplicates of claims 1, 2, 5, 8 and 14.

However, independent claim 1 evokes 35 USC §112, sixth paragraph ("locking means") while independent claim 10 does not ("locking element"). Independent claim 1 thus falls under all the considerations of 35 USC §112, sixth paragraph, for example the analysis as to whether all terms in a means-plus-function or step-plus-function clause are limited to what is disclosed in the written description and equivalents thereof. See, e.g., *IMS Technology Inc. v. Haas Automation Inc.*, 206 F.3d 1422, 54 USPQ2d 1129 (Fed. Cir. 2000).

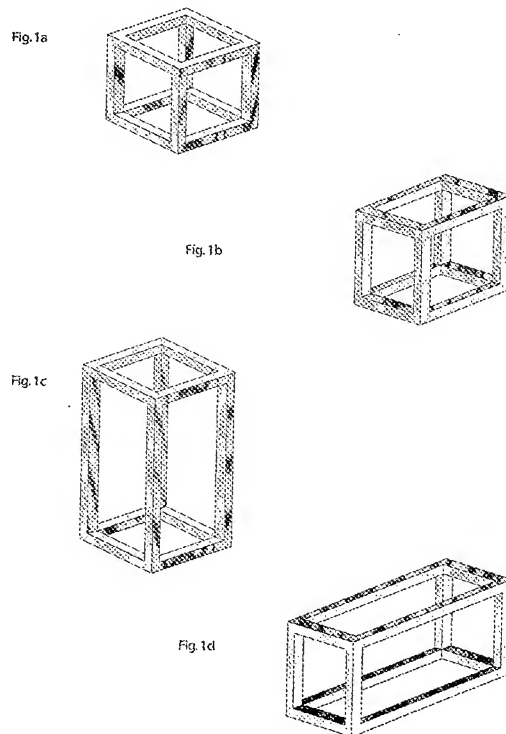
On the other hand, independent claim 10 (and its dependent claims) is not constrained by these considerations. That is, an equivalent for the "locking element" not explicitly disclosed in the specification will more likely fall under the aegis of claim 10 than claim 1.

The two sets of claims are thus not substantial duplicates.

Admittedly the phraseology ("locking means") can be improved ("means for locking"), but it is believed that the import of this term is clear.

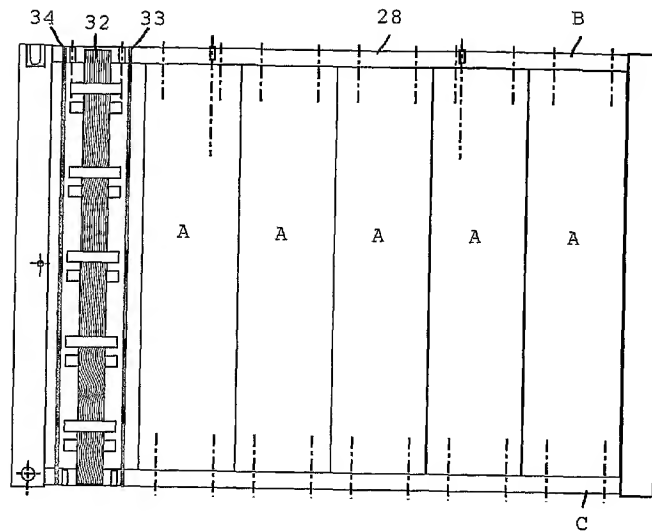
7.2 Second ground: Rejection under 35 U.S.C. §102

The present invention pertains to a security container formed from modules such as are depicted in Figure 1 of the application, reproduced below.



These modules are used to form the security container (including scantlings 32) exemplarily set forth in Figure 2 of the application, which is reproduced below.

Fig. 2



The scantlings are discussed in the specification in the paragraph starting at page 3, line 30:

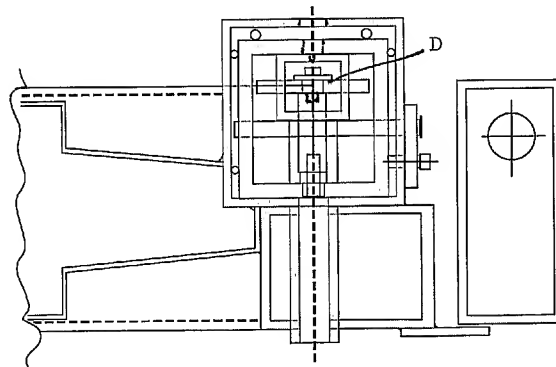
*To further make it more difficult to saw through the concrete, metal casings at the inside and at the outside of the parts, and **reinforcing wooden scantlings and/or pellets of wood/rubber pieces in the concrete are used.** By this a concrete saw will tend to pinch and stuck in an effort to saw through. **The presence of scantlings, wooden pellets and mix of rubber in the concrete in all parts will also make it extremely hard to cut through the concrete using a plasma lance.** The weakening of the concrete by mixing pellets and rubber pieces into it is not critical as the necessary physical properties is obtained by the combination and by the placement of the material chosen. (Emphasis added).*

The combination of material used in the security vault of the present invention unexpectedly increases the safety by

making it harder to break through using existing tools and methods.

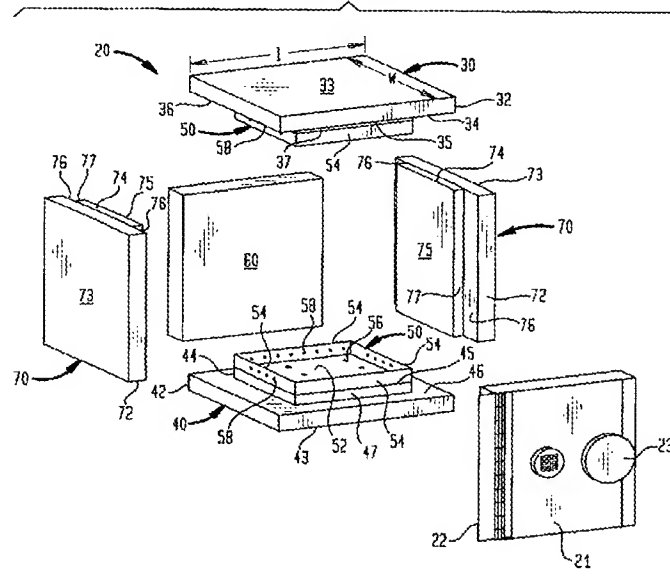
A sectional view of the countersunk lock device D of the present invention is shown in Figure 5, which is reproduced below.

Fig.5



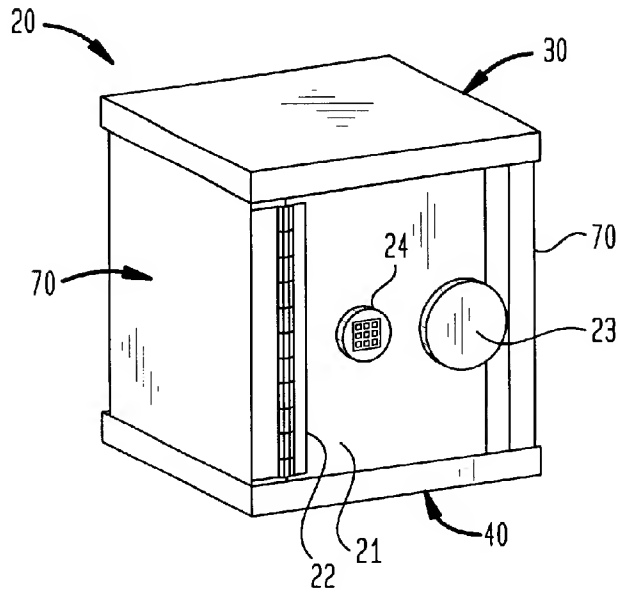
ALIZADE pertains to a modular security safe. An exploded view of the safe of ALIZADE is shown in Figure 1C, which is reproduced below.

FIG. 1C



As can be seen, the safe of ALIZADE has only one locking device. This is the combination lock means 24 (column 5, line 54) that is depicted in Figure 1a.

FIG. 1A



Nonetheless, the final Office Action reads multiple locking devices into the disclosure of ALIZADE. For example, Figure 3A of ALIZADE shows locking bolt apertures 88. Figure 2 of ALIZADE shows attachment bolt apertures 58 (which are for **attaching** and not locking).

In contrast, claim 1 of the present invention has "at least two independent of each other locking devices are arranged in connection to a door section in which at least one primary locking device will protect against admission to a secondary head locking device."

ALIZADE additionally fails to disclose features for a security device formed from multiple basic modules, such as scantlings.

The Office Action asserts that the support brackets 94 in Figures 5A and 5B are scantlings.

FIG. 5A

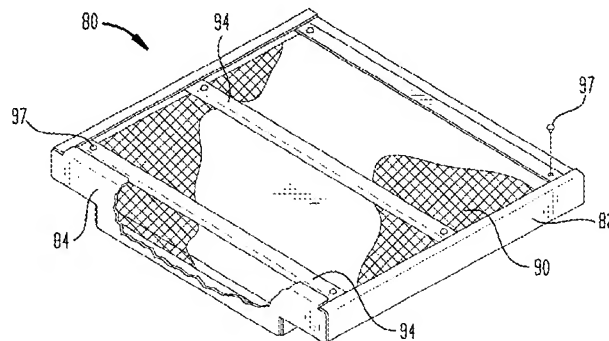
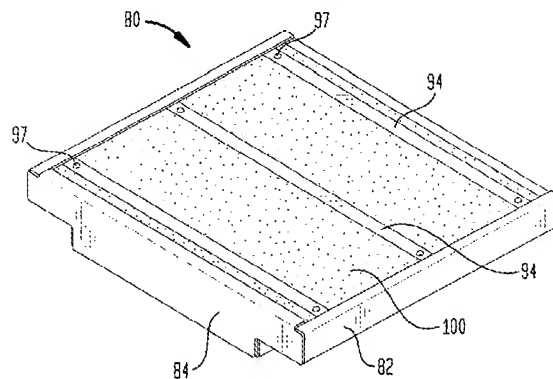
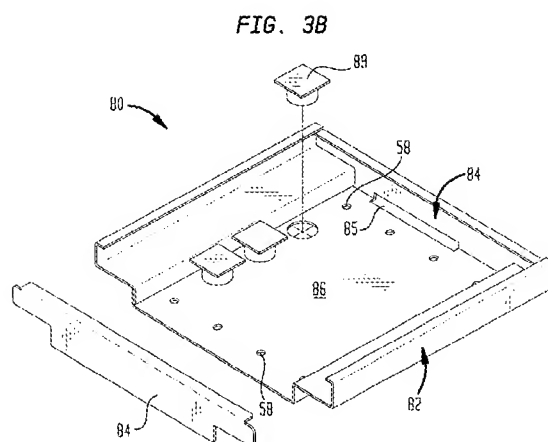
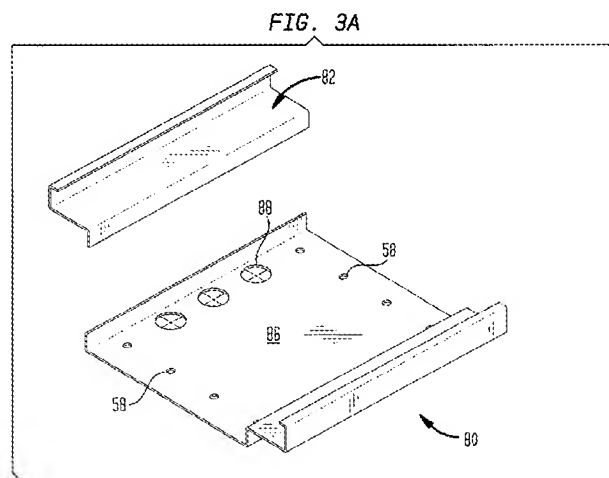


FIG. 5B



However the support brackets 94 of ALIZADE are clearly internal supports and are not "metal casings between which a plurality of scantlings are arranged," such as is set forth in the independent claims of the present invention. Feature 86, referred to in the final Office Action, is a shell

bottom plate that is the underside of the structures depicted in Figures 5A and 5B of ALIZADE (see Figures 3A and 3B).



ALIZADE thus fails to disclose features for a security device formed from multiple basic modules, such as scantlings.

ALIZADE accordingly fails to disclose each and every feature of independent claims 1 and 10 of the present invention, and these claims are thus not anticipated. Claims depending upon claims 1 or 10 are patentable over ALIZADE for at least the above reasons.

This rejection should accordingly be withdrawn.

7.3 Third ground: Rejection over ALIZADE and DIPPOLD et al.

The Final Office Action acknowledges that ALIZADE does not disclose the concrete in the wall sections of the security container has a ballast of rubber pieces. DIPPOLD et al. is turned to address this deficiency.

However, this reference fails to address the deficiencies of ALIZADE discussed above.

One of ordinary skill and creativity would thus not produce a claimed embodiment of the present invention from a knowledge of ALIZADE and DIPPOLD et al., and a *prima facie* case of unpatentability has thus not been made.

This rejection should accordingly be withdrawn.

7.4 Fourth ground: Rejection over ALIZADE and ROBBINS et al.

The Final Office Action acknowledges that ALIZADE does not disclose the primary locking device has a shape of a mortise lock. ROBBINS et al. is turned to address this deficiency.

However, this reference fails to address the deficiencies of ALIZADE discussed above.

One of ordinary skill and creativity would thus not produce a claimed embodiment of the present invention from a knowledge of ALIZADE and ROBBINS et al., and a *prima facie* case of unpatentability has thus not been made.

This rejection should accordingly be withdrawn.

8. Conclusion

The Appellant has demonstrated that the Examiner has failed to successfully allege that the rejected claims are anticipated or *prima facie* unpatentable. It is clear that the inventive security container represents a truly inventive technology. For the reasons advanced above, it is respectfully submitted that all the rejected claims in this application are allowable. Thus, favorable reconsideration and reversal of the rejections of the under 35 USC §§102/103, by the Honorable Board of Patent Appeals and Interferences, are respectfully solicited.

Please charge the requisite Appeal Brief fee in the amount of \$270 to our credit card.

Respectfully submitted,

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9. Claims appendix

1. A security container, comprising:

at least one basic module;
at least one floor element;
at least one ceiling element;
side wall elements; and

one end piece, the side wall elements and the end piece being mounted between the floor element and the ceiling element at the basic module, the basic module being attached to one door section equipped with a lock device in connection to at least one of the end piece and the side wall elements,

wherein the door section, in its closed position, has parts protruding into or behind, or into and behind, adjacent side wall elements, and, in a locked position, has locking means protruding into the floor element and into the ceiling element, the wall sections have outer and inner casings of metal, an intermediate space is partially filled with concrete, the container having metal casings between which a plurality of scantlings are arranged, and at least two independent of each other locking devices are arranged in connection to a door section in which at least one primary locking device will protect against admission to a secondary head locking device.

2. The security container according to claim 1, wherein one or several basic modules of a same or of different shapes

and with a certain maximal weight, are equipped with at least one of bails and hooks for an external application of lifting means, said at least one of bails and hooks in their attachment into the basic module have an intentionally limited strength.

5. The security container according to claim 1, wherein the concrete has ballast in the shape of rubber pieces.

8. The security container according to claim 1, wherein the primary locking device has a shape of a mortise lock with a bayonet catch hiding another primary locking device or the secondary head locking device.

10. A security container, comprising:

at least one basic module;
at least one floor element;
at least one ceiling element;
side wall elements; and

one end piece, the side wall elements and the end piece being mounted between the floor element and the ceiling element at the basic module, the basic module being attached to one door section equipped with a lock device in connection to at least one of the end piece and the side wall elements,

wherein the door section, in its closed position, has parts protruding into or behind, or into and behind, adjacent

side wall elements, and, in a locked position, has a locking element protruding into the floor element and into the ceiling element, the wall sections have outer and inner casings of metal, an intermediate space is partially filled with concrete, the container having metal casings between which a plurality of scantlings are arranged, and at least two independent of each other locking devices are arranged in connection to a door section in which at least one primary locking device will protect against admission to a secondary head locking device.

11. The security container according to claim 10, wherein one or several basic modules of a same or of different shapes and with a certain maximal weight, are equipped with at least one of bails and hooks for an external application of lifting means, said at least one of bails and hooks in their attachment into the basic module have an intentionally limited strength.

12. The security container according to claim 10, wherein the concrete has ballast in the shape of rubber pieces.

13. The security container according to claim 10, wherein the primary locking device has a shape of a mortise

lock with a bayonet catch hiding another primary locking device or the secondary head locking device.

14. The security container according to claim 1, wherein the security container comprises a plurality of basic modules.

15. The security container according to claim 10, wherein the security container comprises a plurality of basic modules.

10. Evidence appendix

None.

11. Related proceedings appendix

None.